

AUG 11 2006

Atty. Dkt. No. 034827-1502

REMARKS

Claims 1-27 are pending. Claims 25-27 have been amended to be responsive to a restriction requirement. The amendments raise no issue of new matter.

In response to the restriction requirement set forth in the Office Action mailed June 16, 2006, Applicants hereby elect with traverse Group III, Claims 24-27, drawn to a kit classified in class 536, subclass 24.33. Applicants further elect as the specific pair of oligonucleotide sequences, SEQ ID NOs: 13 and 14. Claims 24-27 read on the elected sequences.

Notwithstanding the foregoing, Applicants respectfully request that the Examiner reconsider the restriction requirement and examine all currently pending claims or, at the minimum, examine all of the sequences for the claims of elected Group III.

A restriction requirement is proper if (1) two or more independent and distinct inventions are claimed in one application (35 U.S.C. §121), and (2) there would be a serious burden on the examiner if restriction is not required. MPEP § 803. Both requirements must be met for a restriction to be proper.

The restriction requirement however is flawed because it fails to address whether a serious burden exists to search all of the claims regardless of whether they could include separate inventions. Because the oligonucleotide sequences are part of all of the claims, a search of all the recited sequences would provide a clear indication of the state of the relevant prior art. To search all of the sequences would not be a serious burden because database computer searching of nucleic acid sequences is routine and quick. Accordingly, Applicants request that the Examiner reconsider the restriction requirement and examine all currently pending claims or, at the minimum, examine all of the sequences for the claims of elected Group III.

No fee is believed due with this filing, however, the Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16 1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper

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payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

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